

**BEFORE THE BOARD OF CONTRACTORS**

**STATE OF IDAHO**

In the Matter of the Registration of:	)	
	)	Case No. CON-2007-73
SIGNATURE CONSTRUCTION,	)	
Registration No. RCE-9745,	)	<b>STIPULATION AND</b>
	)	<b>CONSENT ORDER</b>
Respondent.	)	
_____	)	
CON\Signature-Const\P7193lga		

WHEREAS, information has been received by the Idaho State Board of Contractors (the "Board") that constitutes sufficient grounds for the initiation of an administrative action against Signature Construction ("Respondent"); and

WHEREAS, the parties mutually agree to settle the matter in an expeditious manner in lieu of administrative hearings before the Board; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

**A. Stipulated Facts and Law**

A.1. The Board regulates the practice of contracting in the State of Idaho in accordance with title 54, chapter 52, Idaho Code.

A.2. The Board has issued Registration No. RCE-9745 to Respondent. Respondent's registration is subject to the provisions of title 54, chapter 52, Idaho Code and the Board's rules at IDAPA 24.21.01, *et seq.*

A.3. On or about August 23, 2006, and September 6, 2006, Respondent submitted bids to do contracting work for Noella Pegram. True and correct copies of the August 23, 2006, and September 6, 2006, bids are attached hereto as Exhibit A. The work included installing a concrete partition border between horse stalls, removing an existing storage area attached to a barn, and building a new storage addition with a concrete floor to a barn. Ms. Pegram paid Respondent a total of \$18,000 to start work on the project.

A.4. Respondent subsequently poured the concrete for the project and began to work on the framing of the building addition. In approximately October 2006 Ms. Pegram fired Respondent from the project.

A.5. On or about November 30, 2006, an official from the Gem County Building Department inspected the addition constructed by Respondent and found several code violations in the framing. The official advised Ms. Pegram that Respondent had failed to obtain a building permit and that the only way to correct the numerous code violations was to raze the building and start over because the building was a hazard as it existed.

A.6. The allegations of Paragraphs A.3 through A.5, if proven, would violate the laws and rules governing the practice of contracting, specifically Idaho Code §§ 54-5215(2)(f) (contractors shall not engage in conduct constituting a violation of public laws, ordinances or rules of this state), 54-5214(2)(g) (contractors shall not engage in conduct which constitutes dishonest or dishonorable dealings) and 54-5215(2)(h) (contractors shall not fail to meet the generally accepted standard of care in the practice of construction). Violations of these laws constitute grounds for disciplinary action against Respondent's registration to practice contracting in the State of Idaho.

## **B. Waiver of Procedural Rights**

I, C. Innes, owner of Respondent Signature Construction, by affixing my signature hereto, acknowledge that:

B.1. I have read, understand and admit the allegations pending before the Board, as stated in Section A, Paragraphs A.3 through A.5. I further understand that these allegations constitute cause for disciplinary action upon my registration to practice contracting in the State of Idaho.

B.2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to testify myself; the right to reconsideration of the Board's orders; the right to judicial review of the Board's orders; and all rights accorded by the Administrative Procedure Act

of the State of Idaho and the laws and rules governing the practice of contracting in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this Stipulation as a resolution of the pending allegations.

B.3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my registration without further process.

### **C. Stipulated Discipline**

C.1. Registration No. RCE-9745 issued to Respondent Signature Construction is hereby SUSPENDED for a period of fifteen (15) days. During the suspension period, Respondent shall not practice contracting in the State of Idaho. The suspension period shall commence on October 16, 2007.

C.2. Respondent shall pay to the Board an administrative fine in the amount of Five Hundred and No/100 Dollars (\$500.00) within sixty (60) days of the entry of the Board's Order.

C.3. Respondent shall pay investigative costs and attorney fees in the amount of Five Hundred Forty-Two and No/100 Dollars (\$542.00) within sixty (60) days of the entry of the Board's Order.

C.4. Respondent's Registration No. RCE-9745 shall be placed on probation for a period of two (2) years from the date of entry of the Board's Order. The conditions of probation are as follows:

a. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of contracting in the State of Idaho.

b. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change.

c. If Respondent should leave Idaho for three (3) continuous months, or to reside or practice outside of the state, Respondent must provide written notification to the Board of the dates of departure, address of intended residence or place of business, and indicate whether Respondent intends to return. Periods of time spent outside Idaho

will not apply to the reduction of this period or excuse compliance with the terms of this Stipulation.

d. Respondent shall fully cooperate with the Board and its agents, and submit any documents or other information within a reasonable time after a request is made for such documents or information.

e. Respondent shall make all files, records, correspondence or other documents available immediately upon the demand of any member of the Board's staff or its agents.

C.5. At the conclusion of the two-year probationary period and provided Respondent has complied with all other terms of this Stipulation, Respondent may request from the Board termination of the conditions of probation. Any request for termination of probation must be accompanied by written proof of compliance with the terms of this Stipulation.

C.6. All costs associated with compliance with the terms of this Stipulation are the sole responsibility of Respondent.

C.7. The violation of any of the terms of this Stipulation by Respondent may warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

#### **D. Presentation of Stipulation to Board**

D.1. The Board's prosecutor shall present this Stipulation to the Board with a recommendation for approval.

D.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

D.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be regarded as null and void, and admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing.

D.4. Except for Paragraph D.2. which becomes effective when Respondent signs this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

#### **E. Violation of Stipulation and Consent Order**

E.1. If Respondent violates this Stipulation and Consent Order, the violation shall be considered grounds for additional discipline and the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether Respondent has violated this Stipulation and Consent Order. The Chief shall also serve notice of the hearing and charges to Respondent and to Respondent's attorney, if any. Within twenty-one (21) days after the notice of the hearing and charges is served, Respondent may submit a response to the allegations. If Respondent does not submit a timely response to the Board, the alleged violations will be deemed admitted.

b. At the hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to evidence relevant to whether Respondent has violated this Stipulation and Consent

Order. At the hearing the facts and substantive matters related to the violations described in Section A shall not be at issue.

c. At the hearing, the Board may impose additional discipline, which may include the suspension or revocation of Respondent's registration, the imposition of

fines, the recovery of costs and attorney fees incurred by the Board and/or other conditions or limitations upon Respondent's practice.

E.2. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

E.3. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to me or the Board rejects this Stipulation, it will be of no effect.

DATED this 19 day of July, 2007.

SIGNATURE CONSTRUCTION

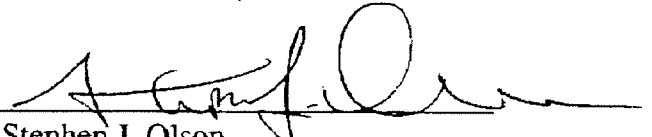
By C. Innes  
C. Innes, Owner  
Respondent

Approved as to form.

DATED this 23<sup>RD</sup> day of July, 2007.

EBERLE, BERLIN, KADING, TURNBOW  
MCKLVEEN & JONES, CHD.

By

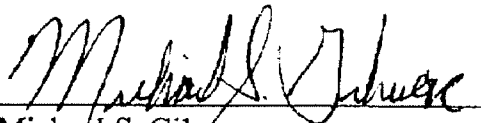
  
Stephen J. Olson  
Of Attorneys for Respondent

I recommend that the Board enter an Order based upon this Stipulation.

DATED this 24<sup>TH</sup> day of July, 2007.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By

  
Michael S. Gilmore  
Deputy Attorney General

### ORDER

Pursuant to Idaho Code § 54-5207, the foregoing is adopted as the decision of the Board of Contractors in this matter and shall be effective on the \_\_\_\_ day of \_\_\_\_\_, 2007. **IT IS SO ORDERED.**

IDAHO STATE BOARD  
OF CONTRACTORS

By

  
Jerry Nemo, Chair

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15<sup>th</sup> day of August, 2007, I caused to be served a true and correct copy of the foregoing by the following method to:

C. Innes  
Signature Construction  
4728 W. South Slope Road  
Emmett, ID 83617

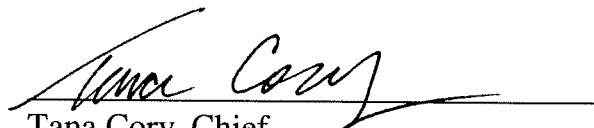
- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☐ Statehouse Mail

Stephen J. Olson  
EBERLE BERLINE  
P.O. Box 1368  
Boise, ID 83701

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☐ Statehouse Mail

Michael S. Gilmore  
Deputy Attorney General  
P.O. Box 83720  
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☒ Statehouse Mail

  
Tana Cory, Chief  
Bureau of Occupational Licenses